

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

MARK ANTHONY BROWN,  
  
Plaintiff,  
  
v.  
  
F. RODRIGUEZ, et al.,  
  
Defendants.

No. 1:20-cv-00661-NONE-EPG (PC)

ORDER GRANTING, IN PART, AND  
DENYING, IN PART, PLAINTIFF'S  
MOTION TO RECONSIDER COURT'S  
ORDER CONCERNING SCHEDULING  
CONFERENCE

(ECF No. 47)

On February 1, 2021, Plaintiff Mark Anthony Brown ("Plaintiff"), a state prisoner proceeding *pro se* and *in forma pauperis*, filed a motion entitled Motion Requesting Judge Reconsider Initial Scheduling Conference and Settlement Conference Dates and Motion Requesting that the Court Orders Defendants to File a Motion Explaining Why They Failed to Attend the Initial Scheduling Conference. (ECF No. 47). Plaintiff states that he was able to attend the scheduling conference, which the Court continued; wants to set the dates without the benefit of a conference; and wants Defendants to explain why the conference was canceled.

On September 16, 2020, the Court ordered parties to exchange their initial disclosures and set a telephonic scheduling conference for January 20, 2021. (ECF No. 31). After both parties requested a settlement conference, (ECF Nos. 39 & 40), on January 15, 2021, Magistrate Judge Sheila K. Oberto set one for April 15, 2021, (ECF No. 45).

The day of the scheduling conference, Defendants' counsel telephoned the Court. She said that Plaintiff's institution of confinement informed her that it was short staffed and could not

1 produce Plaintiff for the scheduling conference. Based on counsel's representation, the Court  
2 continued that conference to April 26, 2021. (ECF No. 46). The Court selected the date in part  
3 because the parties may settle at the April 15, 2021 settlement conference.

4 Plaintiff's pending motion (ECF No. 47) states that he was prepared to attend the  
5 scheduling conference, that he sought assistance from prison officials to attend it, and that he filed  
6 a scheduling conference statement two weeks in advance of the hearing. However, prison officials  
7 refused to escort him to a proper location and Defendants never filed a motion requesting a  
8 continuance. Plaintiff asks the Court (1) to set a schedule without the benefit of a conference and  
9 (2) to order Defendants to file a statement explaining the continuance.

10 First, in light of the settlement conference that both parties requested, the Court will not  
11 reconsider its order that continued the scheduling conference until after the settlement conference.

12 Second, the Court will not order an explanation. Typically, a party must file a motion to  
13 continue a conference. Counsel represented that the day of the conference, she learned that  
14 Plaintiff's prison was short staffed and could not produce Plaintiff. Filing a motion was  
15 impractical in this case. The Court is aware that the current pandemic has resulted in more  
16 difficulties than usual in staffing and inmate movement.

17 Accordingly, Plaintiff's motion for reconsideration (ECF No. 47) is HEREBY DENIED.

18  
19 IT IS SO ORDERED.

20 Dated: **February 8, 2021**

21 /s/ Eric P. Gray  
22 UNITED STATES MAGISTRATE JUDGE  
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